

ORDINANCE NO. 1447

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, PROVIDING FOR TEXT AMENDMENTS TO CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS" BY AMENDING ARTICLE 7, "DEFINITIONS", SPECIFICALLY "BUILDING HEIGHT"; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER'S ERRORS, AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, the current Land Development Regulations ("LDRs"), Chapter 29 of the City Code of Ordinances, was adopted in July 2017 through Ordinance No. 1417. The LDRs were updated to establish zoning districts and regulations that implement the adopted 2007 Future Land Use Map ("FLUM") designations; and

**WHEREAS**, Article 3, Division 10, Sections 3-1003 through 3-1007 of the LDRs outlines the procedures for text amendments and zoning map changes to the LDRs initiated by either the City or one (1) or more owners of record for parcel(s) located within the jurisdictional boundary of the City; and

**WHEREAS**, Article 3, Division 3, Section 3-302 of the LDRs establishes a uniform notice and procedure in order to ensure due process and maintain citizen access to the local government decision-making forum relating to the approval LDR text changes within the jurisdictional boundary of the City; and

**WHEREAS**, the proposed Amendment to Article 7 is necessary to provide for greater clarity and consistency in how building height is measured and any exceptions thereto; and

**WHEREAS**, the proposed Amendment to Article 7 will better comport with the requirements as established in *ASCE 24-14 Flood Resistant Design and Construction* published by the American Society of Civil Engineers (ASCE) that the first finished floor be located, at a minimum, at the National Flood Insurance Program's Base Flood Elevation, plus one (1) foot and;

**WHEREAS**, pursuant to the requirements of Article 3, Division 10, Section 3-1006 of the City LDRs, at duly noticed public meeting held on May 7, 2019, the Planning Commission reviewed the proposed Amendment to the LDRs, the recommendation of City staff, testimony

provided at the public hearing (if any), and issued a recommendation to the Mayor and the City Council to take the appropriate action and adopt the proposed Amendment by passage of this ordinance; and

WHEREAS, pursuant to Article 3, Section 3-1007 of the LDRs, the Mayor and City Council have jurisdiction to adopt the proposed LDR text amendment, and after two (2) duly noticed public meetings (first reading and second reading), have determined that the amendments are in the best interest of City residents and in accordance with state law; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Recitals.** The recitals to the preamble herein are incorporated by reference.

**Section 2. Amendment to Chapter 29, North Miami Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled “Land Development Regulations”, by amending Article 7, entitled “Definitions”, as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES  
CHAPTER 29. LAND DEVELOPMENT REGULATIONS

\* \* \* \* \*

ARTICLE 7. – DEFINITIONS

\* \* \* \* \*

Sec. 7-101. - Definitions.

For the purposes of these land development regulations, the following words and terms have the meaning so specified:

\* \* \* \* \*

**H**

\* \* \* \* \*

Height, building means the vertical number of feet above the finished elevation at the center of the front of the building, including parking, as measured from the minimum base flood elevation plus

one (1) foot, of any structure to the mid-eve of the roof; flat roofs shall be measured from the minimum base flood elevation, plus one (1) foot, to the top of the roof.

Exclusions:

1. In R-1 and R-2 zoning districts, excluding chimneys, solar arrays, cooling towers, elevators, fire towers, flag poles or steeples (on religious facilities), or necessary mechanical appurtenances; provided however, no chimneys, solar arrays, cooling towers, elevators, fire towers, flag poles, or necessary mechanical appurtenances shall may exceed the height limitations in the zoning district in which they are located by no more than twenty (20) percent.

2. In all other zoning districts, chimneys, solar arrays, cooling towers, fire towers, flag poles, steeples (on religious facilities), or necessary mechanical appurtenances, including elevator equipment, may exceed the height limitations in the zoning district in which they are located by no more than twenty (20) percent.

In no event shall any of the exclusions enumerated herein be construed to permit any habitable or usable space to exceed the maximum height limitation of the district. Unless otherwise expressly provided in these LDRs, building heights shall be measured from the minimum base flood elevation of any structure to the mid-eve of the roof; flat roofs shall be measured from the minimum base flood elevation to the top of the roof.

**Section 3. Repeal.** All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 4. Conflicts.** All Ordinances or parts of ordinances in conflict herewith the provisions of this Ordinance are repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, phrase, clause or word of this Ordinance shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, phrases, clause or words of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall notwithstanding the invalidity of any part.

**Section 6. Scrivener's Errors.** The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

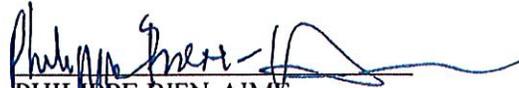
**Section 7. Codification.** The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of

this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or any other appropriate word.

**Section 8. Effective Date.** This Ordinance shall become effective ten (10) days after adoption on second reading.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 12th day of November, 2019.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 26th day of November, 2019.

  
PHILIPPE BIEN-AIME  
MAYOR

ATTEST:

  
\_\_\_\_\_  
VANESSA JOSEPH, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin  
Sponsored by: Estimé-Irvin

**Vote:**

Mayor Philippe Bien-Aime	<u>  X  </u> (Yes) _____ (No)
Vice Mayor Carol Keys, Esq.	<u>  X  </u> (Yes) _____ (No)
Councilman Scott Galvin	<u>  X  </u> (Yes) _____ (No)
Councilwoman Mary Estimé-Irvin	<u>  X  </u> (Yes) _____ (No)
Councilman Alix Desulme, Ed.D.	<u>  X  </u> (Yes) _____ (No)